MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move that the Bill be referred to a Select Committee consisting of — Messrs.—

T. K. Velu Pillai.
K. A. Narayana Pillai.
Puthupalli S. Krishna Pillai.
Antony George.
K. Padmanabhan.
S. J. Nair.
Edavanatt S. Padmanabha Menon.
R. Sambasiva Aiyar.
K. C. Abraham.
R. Raman Pillai.
T. S. Jayantan Nambutiri.
Pacode A. Narayana Pillai.
T. P. Velayudhan Pillai.
A. S. Damodaran Asan.
A. Thanu Pillai.

The Committee is to report within four months.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The motion was put to vote and carried.

THE TRAVANCORE WORKMEN'S COMPENSATION BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I rise to introduce the Travancore Workmen's Compensation Bill and beg to move that the Bill be read in the Assembly.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, the essential object of this Bill is to provide for the payment, by the employer to his workmen, of compensation for injury by accident arising in the course of the employment. Such accidents, generally speaking, occur in what may be called hazardous occupations. The number of workmen in such occupations, whether in factories or otherwise, is on the increase and is likely to continue to increase. In British India and most other civilized countries there is special legislation for the payment of such compensation. In British India, an Act was passed for the purpose in 1923, namely, the Workmen's Compensation Act. Recently, as a result of inquiry made into labour conditions in India by a Royal Commission, that Act underwent substantial changes by Act XV of 1933. It is considered desirable that a law similar to that now in force in British India should be enacted in Travancore also for workmen's compensation. This Bill is drawn closely on the lines of the enactment in British India.

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A workman who sustains injury by accident in the course of his employment has, under the ordinary law, a remedy by civil suit for damages against his employer in the Civil Court. But there are some disadvantages, so far as the workman is concerned, in seeking remedy in this manner. Firstly, he must have money to file his suit; and he will have to seek expert advice for filing the suit which also may cost him money. Again the damages that may be awarded by a Civil Court has to be assessed by the court on an estimate of what the damages would be in the circumstances of each case and in the nature of things such estimate cannot but be conjectural. Over and above all these there are two special disadvantages, so far as the workman is concerned, in seeking a remedy through the Civil Court; and, that consists in two defences which the employer may raise. One is the defence of "common employment" by which an employer can plead that the accident was due to the default of a fellow workman and the other defence is the defence of "assumed risk" by which an employer is not liable for injury caused to workmen through the ordinary risks of employment, and a workman is presumed to have assumed risks which were apparent when he entered upon his occupation. Such defences, which may very well be raised and easily proved by the employer, will leave the workman entirely without any relief.

In the Act in force in British India and in the Bill now proposed, these disadvantages do not exist. The two defences referred to cannot be raised, because Clause 3 of the Bill lays down that if personal injury, whether resulting in death or resulting in disablement, total or partial or permanent or temporary, is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this measure. In regard to the damages or the amount of compensation, it is definitely fixed by the Bill, and scarcely anything is left for conjecture in the matter of determining the amount of compensation. Clauses 4 to 7 of the Bill deal with this amount of compensation. Clauses 4 and 5 read with Schedules I and IV will enable anybody to determine the amount of compensation very easily and definitely. In fact, it is a special feature of this Bill, and of the Indian Act, that extreme precision is aimed at in fixing the scales of compensation awardable. It may be that such attempt at precision may be considered to be creating an extreme rigidity in the law, but none-the-less it proves to be of great advantage to the workman who has to get compensation. The Whitely Commission also has been of this view.

Then, in regard to the machinery by which the compensation has to be fixed and ordered to be given, what is proposed by the Bill, and laid down by the Indian Act, is the appointment of Commissioners by Government; the Commissioner will proceed in a more or less summary manner to determine the questions that may arise between the employer and the employee in this matter. The provisions for the Commissioners, their functions and their procedure are contained in

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[Mr. Kayalam Parameswaran Pillai.]

Clauses 22 to 33 of the Bill. If the workman himself will not go to the Civil Court, the jurisdiction of the Civil Court to interfere in the matter of this compensation is entirely barred. See Clause 3 (5) and Clause 22 (2). As the employer himself has no occasion to go to a court, and in any event as the workman can take steps under the proposed measure, the Civil Court is practically out of court and cannot intervene. The decision of the Commissioner will generally be final but in some limited cases involving questions of law, an appeal will lie to the High Court. See Clause 34. The Commissioner will collect the compensation amounts and see to their proper distribution. See Clauses 36 and 8. In regard to the workmen who can claim the benefit of this provision, it is not all workmen who can do so. Those who can are detailed in Clause 2 (1) (*n*) read with Schedule 2. And in the list of workmen, all workmen employed in what may be called hazardous occupation are included; perhaps, there are also workmen whose occupation may not be considered to be quite so hazardous. However, provision is made in Clause 2 (3) to enable Government to bring other class of workmen within the purview of this measure by a notification. Thus, practically, almost all classes of workmen may be brought in.

We have already introduced certain labour Bills such as the Trade Unions Bill, the Factories Bill, and the Trade Disputes Bill. This is only a company measure by which the workmen can get compensation for injury while in work and the employer also will be freed from a prolonged trouble in a Civil Court. I trust this measure will prove beneficial to both the parties.

MR. M. L. JANARDHANAN PILLAI (*Co-opted*): Sir, with regard to the Workmen's Compensation Bill ordinarily I should have chosen merely to state that I accept the principles on behalf of the employers. But experience in the past has proved that unless I now make certain points clear, difficulties are likely to arise in the Select Committee stage. Therefore I would request the indulgence of the House to allow me to make a few remarks on certain provisions of this Bill.

As I have often said I have been authorised by both the Chambers of Commerce in which European and Indian interests are represented to make these observations known to this House. In regard to this Bill it is now decided to include in its scope only industrial workers. But casual labour of all kinds is, I believe, excluded from its scope. I am referring to this particular aspect, because it may be known to some of the honourable members that some years back in the Kuttanad area when pumping was in full swing one boiler actually burst killing half a dozen people, and they were employed only for one week at that particular time to attend to the boiler. If nothing had happend they would have returned to the town and they would not have had any further work during that season. So, such casual labour also should be included in the provisions of this Bill so that those benefits may be available to them.

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In the inclusion of various diseases some diseases which are particular to some industries on the west coast, particularly such as anthrox, tetanus and hydrophobia are omitted from the list. I think they also ought to be included.

In Clause 3 (1) if personal injury is caused to workmen by accident 'arising out of and in the course of' employment, his employer is compelled to pay compensation. This is a very vague term. The phrase "arising out of and in the course of" may lead to many difficulties subsequently. Therefore this vague term should not be allowed to stand in the Bill.

Under Clause 10 the claims of compensation in case of accidents have to be instituted within six months of the date of the occurrence.

DEPUTY PRESIDENT: I wish to make it clear to the member that it is not necessary under the law to raise every point in detail which may hereafter have to be raised in the Select Committee. I say so because Mr. Janardhanan Pillai began his speech with a preface. The general principle of the Bill alone is before the House now. So the details may be considered in the Select Committee even though all those details are not placed before the House now.

MR. M. L. JANARDHANAN PILLAI (*Co-opted*): I am satisfied. I only desire that all these should be discussed in the Select Committee. My only fear is that it may be raised in the Select Committee that the general principles of the Bill were accepted and that no mention was made then in regard to such points.

One thing more I would like to place before the House, and that is a very serious matter. We have no Insurance Companies covering risks under the Workmen's Compensation Scheme. I mean that there are no Insurance Companies registered in Travancore dealing with this class of risk. The position is this. At present there are a number of factories in Travancore and it is likely that a few more may come into existence very shortly. The method used in fixing the insurance premia is to calculate the total wages paid in a factory during one year and charging premia thereon. That means a very large amount will have to be paid by each factory to the Insurance Companies and after all only one or two cases alone might occur. So a large amount of premia which is collected from this source in Travancore are sure to go out of Travancore without any benefit to any company registered in Travancore. Therefore I take this opportunity to request the Government to amend their State Insurance Scheme so as to bring Workmen's Compensation Relief also under its provisions so that large sums may not be lost to Travancore. With these observations I accept the principles of the Bill.

MR. P. S. MOHAMED (*Co-opted*): സർ, തൊഴിലാളികളെ സംബന്ധിച്ച് ഈ സഭയിൽ അവതരിപ്പിച്ചിട്ടുള്ളതും ഈ സഭയുടെ പരിഗണനക്ക വിഷയീഭവിച്ചിട്ടുള്ളതുമായ എല്ലാ ബില്ലുകളെക്കാളും ഏറെ

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[Mr. P. S. Mohamed.]

വും പ്രധാനമായ ഒരു ബില്ലാണിതെന്നു പറയുന്നതിൽ എനിക്കശേഷം അധൈര്യം തോന്നുന്നില്ല. വാസ്തവത്തിൽ ഇന്നു രാവും പകലും ജോലി ചെയ്തുജീവനം കഴിക്കുന്ന തൊഴിലാളികൾ അവരുടെ ജോലിസ്ഥലത്തു കിടന്നു മരിക്കയാണെങ്കിൽ പിറ്റെദിവസം മുതൽ അവരുടെ കുടുംബവും, അവരെ ആശ്രയിച്ചുകഴിഞ്ഞുകൂടുന്നവരും പട്ടിണികിടക്കയല്ലാതെ വേറെ യാതൊരു മാർഗ്ഗവുമില്ല. കാമ്പൻസേഷൻ ലഭിക്കുന്നതിനു വേണ്ടി സിവിൽകോടതിയിൽ പോയി സാധാരണനിയമമനുസരിച്ചു വ്യവഹാരം കൊടുത്തു വിധി സമ്പാദിക്ക എന്നുള്ളതു് ഏറ്റവും പ്രയാസമായ ഒരു സംഗതിയാകുന്നു. എന്നുള്ളതു് ഇതുവരെ ആരും അതിലേക്കു് തുനിഞ്ഞിട്ടില്ലെന്നുള്ളതുകൊണ്ടുതന്നെ തെളിയുന്നുണ്ടു്. അതുകൊണ്ടു് ഇങ്ങനെ ഒരു നിയമം ഈ സഭയിൽ കൊണ്ടുവന്നതിൽ എല്ലാ തൊഴിലാളികളും ഗവൺമെൻറിനോടു് കൃതജ്ഞതയുള്ളവരായിരിക്കുന്നു.

എല്ലാതരത്തിലുള്ള തൊഴിലാളികൾക്കും ഉപയോഗപ്പെടത്തക്കരീതിയിലല്ല ഈ നിയമം രൂപീകരിച്ചിട്ടുള്ളതെന്നു ഞാൻ ഇവിടെ പറയേണ്ട ആവശ്യമില്ല. ഇന്നു തിരുവിതാംകൂറിൽ ഏതെല്ലാംതരത്തിലുള്ള ജോലിക്കാരുണ്ടോ അവരെയെല്ലാം ബാധിക്കത്തക്കവണ്ണം ഒരു നിയമം കൊണ്ടുവന്നു ഉടനടി പാസ്സാക്കുക എന്നുള്ളതു് അത്ര എളുപ്പമുള്ള സംഗതിയല്ലെന്നുള്ള കഥ ഞാൻ ഇവിടെ വിസ്തരിക്കുന്നില്ല. എങ്കിലും ഈ ബില്ലിൻറെ പരിധി കുറെക്കൂടി വിസ്തൃതമാക്കണമെന്നാണു എൻറെ അഭിപ്രായം. കപ്പലിൽ ജോലി ചെയ്യുന്ന ആളുകളെപ്പറ്റി ചിലതെല്ലാം ഇതിൽ പറഞ്ഞിട്ടുണ്ടു്. കപ്പലിൽനിന്നു് ചരക്കു കയറ്റി കരയ്ക്കുകൊണ്ടുവരുന്നവരും, കരയിൽനിന്നു് സാമാനം കപ്പലിൽ കയറുന്നവരുമായ തൊഴിലാളികളെ സംബന്ധിച്ചു് യാതൊന്നുംതന്നെ പറഞ്ഞുകാണുന്നില്ല. അതുപോലെതന്നെ കർഷകതൊഴിലാളികളെ ഈ ബില്ലിൻറെ പരിധിയിൽ ഉൾപ്പെടുത്തേണ്ടയാവശ്യമില്ലെങ്കിലും മി. എം. എൽ. ജനാർദ്ദനൻപിള്ള പറഞ്ഞതുപോലെ കൃഷിയുടെ ആവശ്യത്തിനായി എൻജിൻ വെച്ചു് ജോലിചെയ്യുന്ന ജോലിക്കാരെക്കൂടി ഇതിൽ ഉൾപ്പെടുത്തേണ്ടതാണു്.

അതായതു് ജോലി ചെയ്യുന്നവർ എതുതരമായാലും, ആപൽക്കരമായ ജോലികൾ ചെയ്യുന്നവരെയെല്ലാം ഈ ബില്ലിൻറെ പരിധിയിൽ കൊണ്ടുവരണം. അതുപോലെതന്നെ മറ്റു സ്ഥലങ്ങളിൽ ജോലി ചെയ്യുന്നവരെ സംബന്ധിച്ചും ചിലതു പറയുവാനുണ്ടു്. ഈ ബില്ലിൽ ഉൾപ്പെടുത്തുന്നതിനു 10-ൽ കൂടുതൽ തൊഴിലാളികൾ ഉണ്ടായിരിക്കണമെ

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ന്ന ഇതിൽ കാണുന്നുണ്ട്. എന്നാൽ ഒ ൦ പേരുള്ള സ്ഥലത്തായാലും ഫ ൦ പേരുള്ള സ്ഥലത്തായാലും ഒരാൾ മരിച്ചാലുണ്ടാകുന്ന നഷ്ടം ഒന്നു പോലെയാണ്. അതുകൊണ്ട് അങ്ങിനെ ഒരു റസ്ട്രിക്ഷൻ ഇവിടെ ആവശ്യമില്ല. ഈ അഭിപ്രായത്തോടുകൂടി ഞാൻ ഈ ബില്ലിന്റെ മൂലതത്വത്തെ സ്വീകരിച്ചുകൊള്ളുന്നു.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I also rise to support the principle of the Bill. I have great pleasure in doing so. I believe the chief object of the Workmen's Compensation Legislation is not merely to give the worker compensation when accidents occur and make it possible for him to realise the compensation from the employer easily. Of course there is that fact and that there is need for that help will be acknowledged by everybody. There are a number of accidents that are occurring in factories and yet in many cases compensation is not paid. I myself had occasion to come across several cases and I have found that the workmen are not willing or able to proceed through the ordinary course of law for getting compensation. Therefore such a protection is necessary, though that may be a very big consideration and a sufficient consideration for the acceptance of the principles of this Bill. I consider there is yet another important factor which not merely affects the labourer but the prosperity of the industry as well and hence the prosperity of the State as a whole. I mean this, Sir. For making industry more attractive and less risky you do want to attract labour especially in a country like India where the labouring classes are not labouring classes permanently. In India labourers go to a factory and they earn sufficient to purchase a small plot of ground and as soon as they have done this they go back to their villages and settle down and take to the profession of agriculture. So what I was saying was, so as to retain a body of skilled labour in a country where industrialisation progresses rapidly it is highly necessary to make the industries attractive, less irksome and less risky. Considering that point of view as well, I have great pleasure in supporting the principles of this measure. As the labour representative pointed out there is not much distinction between hazardous labour and non-hazardous labour for the purpose of giving compensation. Whatever may be the kind of industry in which a worker is engaged, whatever may be the causes of death or permanent loss of limb, the suffering to his family is equal and intense and there is full justification in giving compensation irrespective of the nature or the duty. Sir, that is common ground. But with regard to another point, I find that the Royal Commission on Labour has pointed out certain objections in including all kinds of labour within the scope of this act. Sir, I consider that from a practical point of view. They are real and substantial objections. The Royal Commission says that it will be better to restrict the scope of the Bill that relief should be given to those people to whom it can be substantially and effectively given. The Workmen's Compensation law can be worked effectively,

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[Mr. K. Kunjukrishna Pillai.]

only with the aid of Trade Union Organisation. Sir, only on the working of Trade Unions, the Workmen's Compensation Act can be effectively brought into operation. It is on the organisation of Trade Unions that provisions against danger and the question of compensation can be properly secured on the strength of these Unions. I consider that of all these labour legislations the Trade Union Legislation is the basic legislation of labour. With these observations, I have great pleasure in supporting this Bill.

DEPUTY PRESIDENT: The question before the House is whether the principle of this Bill be affirmed.

The principle of the Bill was affirmed by the House.

The Secretary then read the title ofthe Bill as "The Travancore Worksmens Compensation Bill.".

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move that the Bill be referred to a Select Committee consisting of the following persons:—

Mr. 1. T. K. Velu Pillai
,, 2 Kunjukrishna Pillai
,, 3. S. Padmanabha Menon
,, 4. T. K. Alexander
,, 5. Pacode Narayana Pillai
,, 6. K. Mahomed
,, 7. E. K. Kunjuraman
,, 8. Kesava Panickar
,, 9. S. Krishna Panickkar
,, 10. A. S. Damodaran Asan
,, 11. P. C. Kuriyan
,, 12. A. Thanu Pillai
,, 13. J. W. Tolson
,, 14. K. C. Karunakaran
,, 15. M. L. Janardhanan Pillai and
,, 16. P. S. Mahomed

The Committee is to report within four months.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

DEPUTY PRESIDENT: Does the House agree?

MR. T. T. KESAVAN SASTRI (*Nominated*): Sir, may I suggest the name of Mr. John Joseph also to be included?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have no objection.

DEPUTY PRESIDENT: Mr. John Joseph is also included. Does the House Agree?

Mr. John Joseph was also included as a member to the Select Committee with the consent of the House.

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